

REMARKS

Claims 1 and 5 have been rejected by the Examiner under 35 USC 103(a) as being unpatentable over Bourdon et al., U.S. Patent 6,044,318 in view of Badameh, US 2003/0023353A1. Claims 2 and 3 have been rejected by the Examiner under 35 USC 103(a) as being unpatentable over Bourdon in view of Badameh and further in view of Leach et al., EP 1,078,831A2. Also, claims 7 and 8 have been rejected by the Examiner under 35 USC 103(a) as being unpatentable over Bourdon in view of Badameh and further in view of Onodera et al., U.S. Patent No. 6,349,616. These rejections are respectfully traversed.

First of all, it is noted, with appreciation, that the Examiner has indicated that claims 11-14 are allowed and that claims 4, 6, 9 and 10, although objected to as being dependent upon a rejected base claim, would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

As the Examiner will note, claim 1 has been amended to include the subject matter of claim 2, and correspondingly, claim 2 has been cancelled from the present application. Accordingly, claim 1 now defines a vehicle that has five different dynamic vehicle performance positions that can be selected by a selection device, in that a switch can be rotated into a first position wherein the dynamic performance of the vehicle is set to drive on low-grip surfaces; a second position wherein the dynamic performance of the vehicle is set to drive on low-grip road surfaces in sport driving mode; a third position wherein the dynamic performance of the vehicle is set to drive on firm-grip road surfaces in sport driving mode; a fourth position wherein the dynamic performance of the vehicle is set to drive in safe conditions in touring driving mode and a fifth position wherein the dynamic performance of the vehicle is set to track racing mode which disables the electronic driver-aid devices.

The Bourdon patent does not disclose fitting a switch to the steering wheel of the vehicle and thus this feature of the present invention cannot be found in the Bourdon patent.

Recognizing the deficiency, the Examiner has further relied upon the Badarnah reference to allegedly fill this void in the Bourdon patent. Although the Badarnah reference may suggest the use of a rotatable switch fitted to the steering wheel in combination with a display device on the vehicle dashboard for selecting "fast action functions," paragraph [0196] of the Badarnah reference states that there are some fast-action functions which are not immediately suitable for searching through a menu manipulation, that is, by using the rotatable switch fitted to the steering wheel in combination with a display device on the vehicle dashboard and an example of this function is changing from normal driving pattern to winter mode or sports mode, for example, in an automatic gear box. In other words, paragraph [0196] of the Badarnah reference states that the rotatable switch fitted to the steering wheel should not be used to control the changing from normal driving pattern to winter mode or sports mode, for example, in an automatic gear box. Accordingly, it is apparent that paragraph [0196] of the Badarnah reference teaches away from the present invention such that one skilled in the art would certainly not be led to modifying the teachings of the Bourdon patent with those of the Badarnah reference as suggested by the Examiner. Clearly the Examiner is combining the teachings of the respective references in view of the Applicant's own disclosure, which is not permitted.

In rejecting claims 2 and 3 of the present application, the Examiner has further relied upon the Leach et al. reference. However, contrary to the Examiner's position stated in the Office Action letter, the Leach reference does not disclose or even remotely suggest a track racing mode which disables the electronic driver-aid devices. Paragraph [0006] of the Leach reference states that a certain degree of yaw is desirable when driving a racing car, that is, the driver should be able to impart a desirable yawing moment to the vehicle. In paragraph [0070], the Leach reference states that there is a basic control mode A (called manual control) for racing and a basic control mode B (called automatic yaw correction control) for standard driving. In paragraph [0073], the Leach reference states that the calculated brake force obtained from mode A (manual control) or mode B is then developed in the rear wheel units. Thus, it is clear that also in mode A (manual control) the electronic driver-aid devices are active and work (even if they work allowing a certain degree of yaw). Thus, what is stated in paragraphs [0075] to [0091]

and shown in Fig. 6, clearly indicates that the electronic driver-aid devices for regulating the yaw are active also when mode A (manual control) is selected; how this electronic driver-aid device can be disabled (switched-off) if they work, calculate a brake force (steps SA5) and apply the brake force to control the wheel (step SA6). Accordingly, the Leach reference does not disclose or even remotely suggest a track racing mode which disables the electronic driver-aid devices. In order to reach the present invention as recited in claim 1 of the present application, one would have to completely disregard the teachings provided by the Leach reference in which a track racing mode which disables the electronic driver-aid devices is not provided. There is no suggestion for disregarding these teachings without using the Applicant's own disclosure as a template and, in any event, no such suggestion can be found in the Leach reference. Since all of the claim limitations as recited in claim 1 of the present application have not been taught or suggested by the prior art, it is believed that the Examiner has failed to establish a *prima facie* case of obviousness as required by 35 USC 103. Accordingly, it is believed that claim 1, as amended, as well as all of the claims dependent from claim 1, including claims 7 and 8, define an inventive contribution which is not recognized by any of the references relied upon by the Examiner, either alone or in combination.

Accordingly, in view of the above amendments and remarks, reconsideration of the rejections and allowance of all of the claims of the present application are respectfully requested.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Joseph A. Kolasch Reg. No. 22.463 at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

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If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.17; particularly, extension of time fees.

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Respectfully submitted,

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